

**MEDINA CITY COUNCIL
REGULAR MEETING MINUTES**

May 10, 2004
7:00 PM

Medina City Hall
501 Evergreen Point Road

ROLL CALL

Present: Council members Miles Adam, Drew Blazey, Katie Phelps, Deputy Mayor Todd Nunn, Bob Rudolph, Pete Vall-Spinosa, and Mayor Mary Odermat.

Staff Present: City Manager (CM) Doug Schulze, City Attorney Kirk Wines, Police Chief Jeff Chen, Public Works Director Shel Jahn, Planning Director Joseph Gellings and Recording Secretary Carol Wedlund. Building Official Bob Rohrbach was also present.

CALL TO ORDER--The meeting of the Medina City Council was called to order at 7:05 p.m.

APPROVAL OF MEETING AGENDA--Deputy Mayor Nunn moved, seconded by Council member Phelps, to approve the meeting agenda, which carried unanimously.

RESOLUTION NO. 305 PROCLAIMING MAY 20, 2004 AS STEFAN GOLSTON DAY IN MEDINA--Mayor Odermat read Resolution No. 305 proclaiming May 20, 2004 as Stefan Golston Day in Medina, and congratulated him. Council member Phelps moved, seconded by Council member Adam, to approve the resolution, which carried unanimously.

ANNOUNCEMENTS--Mayor Odermat relayed the following:

- Bellevue School District applied for a Special Use Permit on May 3, 2004. The Council will conduct a special public hearing on June 7, 2004 to consider that request.
- The Bellevue School District has scheduled a special meeting at Medina Elementary School on Wednesday, May 12, 2004 from 6:30 to 8:30 p.m.
- Contact the City Clerk if you wish to register for the Association of Washington Cities annual conference at Ocean Shores from June 16-18, 2004.
- An Eastside Community Roundtable will occur May 11, 2004 at the Kirkland Library, 6:00 until 8:00 p.m.

CONSENT AGENDA

Council member Phelps moved, seconded by Council member Rudolph, to approve the consent agenda. There were some questions regarding the April 12, 2004 minutes and the April Study Session minutes. City Manager Schulze stated there should be a discussion to reach agreement regarding what the Council would like to see in future minutes, as they were intended to be a summary. He added it would be helpful if Council members would call in advance if there were substantial changes. City Attorney Wines stated the minutes should not be used to rewrite what had occurred. Odermat commented it would take verification of the recording to determine what had been stated. Staff was directed to send Council members an audio file of pertinent portions of the April 12 and April 26, 2004 meetings. Council member Phelps amended her motion to remove the minutes of April 12 and April 26, 2004, but to approve items E-3 and E-4 on the Consent Agenda, seconded by Council member Rudolph, and the motion carried unanimously.

E-1 Minutes of April 12, 2004 Council Meeting – approval deferred pending verification of recording

E-2 Minutes of April 26, 2004 Council Study Session – approval deferred pending verification of recording

E-3 April 2004 Checks and Finance Officer's Report – approved

E-4 Confirmation of Appointment to Park and Recreation Commission - approved

AUDIENCE PARTICIPATION

It was noted future agendas should be clarified regarding whether or not public participation would be allowed. Following discussion, Mayor Odermat stated the Council would allow public comments regarding the Medina Park Dog Control Proposal when they reached that agenda item, even though a future public hearing was planned.

REPORTS

As an outflow from the Council Retreat, the Council had decided to review each report topic and decide whether they had questions of staff.

Police Department--The Council had no questions, and Chief Chen had nothing to add.

Development Services—A Council member inquired if an owner began construction without a permit whether Medina required an investigation fee in the amount of a permit fee, so the applicant essentially paid the permit fee twice. Mr. Gellings replied affirmatively. City Attorney Wines stated an applicant had stated a permit was not needed due to the way the Code was written. City Attorney Wines will be addressing this issue in written form.

Public Works—The Council had no questions, and Public Works Director Jahn had nothing to add.

Park Board—City Manager Schulze stated there was no Park Board report.

Emergency Preparedness Committee—City Manager Schulze will provide the Council with a memo related to the efforts of the Emergency Preparedness Committee, as discussed during the Council Retreat. This will probably be included in the next City Manager's Activity Report.

City Manager's Report—City Manager Schulze felt confident about Medina's operating costs being in line with the budget for the total year. He reported revenues were pretty close to where they should be for this far into 2004. The sales tax fluctuated from month to month.

A Council member asked about the possibility of a fine in the future as a reasonable deterrent for illegal girdling of trees. City Attorney Wines promised to review Medina's tree ordinance and report back to the Council on a maximum fine for violation.

There was another inquiry about the additional data from Mr. Meith regarding the Compensation Study Report. City Manager Schulze stated Mr. Meith had provided the data, but he needed Council direction when and in what format they wished it to be on the agenda.

A Council member questioned the status regarding possible historical preservation of the old barn. Mr. Gellings indicated he was investigating different programs that would fit Medina's circumstances, and expected to report to the Council within 2-4 weeks.

OTHER BUSINESS

Discussion of Intersection Sight Distance Proposed Regulations—Public Works Director Jahn reported he had softened the ordinance language and had submitted it to the City Attorney for review. He stated five residents had approached him with concerns about intersection sight distance. Chief Chen added even at speeds of 20 miles per hour, accidents could be severe. For safety considerations, the Police Department was in support of Public Works Director Jahn's proposal. It was noted Clyde Hill had a more stringent sight line than Medina. Further, an ordinance like the one proposed could make the city more culpable; therefore, some revisions were in order. A Council member suggested addressing this issue on a case-by-case basis. Also suggested was on-going mention in the Medina Newsletter, with enforcement instructions given to the Police Department. Another Council member recommended guidelines be first established before Newsletter insertion. It was noted the shrubbery which was already in place would grow. Further, without guidelines, there was greater threat for bicyclists and pedestrians. City Attorney Wines advised staff would have difficulty implementing sight line requirements without the proper authority. Deputy Mayor Nunn emphasized an ordinance was necessary for enforcement. The Council directed that a final ordinance be drafted for Intersection Sight Distance, with a public hearing to be scheduled September 13, 2004. Deputy Mayor Nunn will draft some proposed language and e-mail it to Public Works Director Jahn. Public Works Director Jahn volunteered to give notice in the quarterly Medina Newsletter.

Approval of Three Way Stop Sign—The Council approved a three-way stop sign at Evergreen Point Road and Overlake Drive West.

Discussion of Adopting International Building Code & Fee Schedule—A Council member asked if it was possible to require residents who already had flammable storage tanks to comply with the proposed standards. City Attorney Wines volunteered to review whether or not such residents could be forced to scale back their flammable storage tanks. By consensus, the International Building Code Ordinance was moved to the June 14, 2004 consent agenda. A fee schedule will be attached to the ordinance.

Discussion of Medina Park Dog Control Proposal—Parks Commission member Gerlitz presented the Commission's proposal regarding the proposed new dog control measures for Medina Park. She noted the damages done by dogs in the Park, as well as dog complaints to the Commission. Commission member Gerlitz

also emphasized the city spent \$11,000 per year for mutt mitts. She outlined the steps that had been taken by the city and the Commission to control dogs in the Park. She also relayed professional dog walkers from outside Medina regularly used the Park to walk dogs. Commission member Gerlitz pointed out dogs in Bellevue were not allowed in that city's parks without a leash. Mayor Odermat added the City Manager had called Kirkland and asked them to stop referring to Medina Park as the "dog park". The Council scheduled the Medina Park dog control proposal for a public hearing. They also requested a follow up report on non-resident dog licenses.

Mayor Odermat opened the meeting to public participation regarding Medina Park Dog Control at 8:44 p.m.

Randi Leggett, P.O. Box 608, Medina, was appalled by the damage done by dogs at Medina Park. She emphasized the lack of Park stewardship, and voiced approval of the proposed compromise plan.

As a 10,000 time visitor to the Park, **Tom Bacher, 918 Sunset Way, Bellevue, 98004**, had only stepped on dog feces twice. Mr. Bacher emphasized 90 percent of the time, dog owners picked up after their pets. However, visitors also picked up other people's dog feces. He did not feel it was fair to cut back unfettered dog usage in the Park, and argued Medina residents had been promised 15 years ago they would not have to revisit this issue again. Mr. Bacher offered to pay for grass seed, if need be, to repair damage done by dogs to the grass.

As a former Park Board member, **Mary Langenbach, 1659 Rambling Lane**, felt it was a privilege to use the Park. She was in favor of the compromise, and did not want to lose the opportunity to have dogs in the park.

Lucius Bigelow, 2425 Evergreen Point Road, noted the Park was a city asset. He suggested a survey be conducted to determine whether residents who would otherwise use the Park did not do so due to the dogs. He indicated for the most part, the dogs were well behaved in the Park. Further, when a dog left feces, other residents were careful to dispose of it.

Wendy Miller, 2221 Evergreen Point Road, echoed **Mr. Bigelow's** request for a survey, so citizens' comments could be quantified in advance of a public hearing. She used the Park every day, and visiting it was her 10-month old son's greatest joy. She felt more dog feces were left on Medina streets than in the Park.

Pete Heathcote, 3232 – 78th Place, agreed with the above citizens' comments. He voiced concern if dogs were bunched into a corner and strayed too close to the road, they could become a danger to themselves.

Lisa Fleischman, 7641 NE 12th Street, felt fortunate to be able to take her dog to the park every day. She felt the proposal was an equitable way to meet community needs, and dogs could still run free in the off-leash area.

Douglas Jones, 9406 Vineyard Crest, Bellevue, 98004, stated he had taken his dog to the Park for years. He noted the injured tree had been damaged during a windstorm. Mr. Jones also mentioned the west section of the park was not maintaining its firm surface, due to a drainage problem.

Wilma Edmonds, 7721 NE 24th Street, asked how much more money must be spent for education when all efforts so far had not worked. There was no money for police enforcement in the Park. If dog lovers were willing to police the Park, it was cheap labor. However, without enforcement, any ordinance was useless.

A Council member inquired whether overnight camping was allowed in the Park. Chief Chen was not aware of any overnight camping, but stated the park was closed between 10:00 p.m. and 6:00 a.m. It was suggested by a Council member in the winter not many people or dogs used the park, so there might be a seasonal aspect which could be taken into consideration. City Manager Schulze stated after the City Attorney obtained feedback, he would draft the proposed ordinance in the proper format. He also noted enforcement would be easier with an on-leash area and an off-leash area. City Attorney Wines offered to prepare a written report. Public Works Director Jahn commented about 60 percent of those using the Park were from outside of Medina. Parks Commission member Gerlitz cautioned the Council to be careful how they divided the Park, because if fences were to be used, there would be as much controversy about that as about dogs running off-leash in the Park.

Mayor Odermat closed the Medina Park Dog Control public participation portion of the meeting at 9:24 p.m. The Council decided by consensus to move forward with a proposed ordinance, to advertise and to conduct a public hearing.

A recess was taken at 9:26 p.m., and the meeting reconvened at 9:38 p.m.

Discussion of SR-520 City Council Position—City Manager Schulze provided background information relative to previous City Council positions and communication related to the SR-520 project. City Manager Schulze will check with Clyde Hill, Hunts Point and Yarrow Point regarding the Cooperating Agency status. Staff was directed to identify the projected workload involved with review and comments. City Manager Schulze will send an electronic file of the January 8, 2002 Les Rubstello WSDOT letter to Council members who had not received it for review and comments. It was suggested a consultant be hired to assist. Mayor Odermat recommended the Points Communities share the burden in responding. Deputy Mayor Nunn thought staff could screen the issues and inform the Council what was needed. Also recommended was having an overall strategy in place, so if the city needed to respond to an issue, they would be focused on the right one. The Council approved the Cooperating Agency status for the SR-520 project.

Steve Broback, 3223 Evergreen Point Road, stated he would be talking with some Montlake residents later in the week, and volunteered to furnish the Council with a report.

City Manager Schulze suggested the Council develop a position on the flyer stops and the park-and-ride lot on Evergreen Point Road. He pointed out the width of the roadway from Evergreen Point Road to 84th Avenue NE was directly impacted by the Evergreen Point Road flyer stop. Elimination of this flyer stop would significantly narrow the freeway footprint at this location, which would reduce the impact upon surrounding Medina properties. Elimination of the flyer stops and park-and-ride would also reduce traffic coming into Medina just to use the flyer stop. It would also do away with the need for a stairwell and elevator from the Evergreen Point Road lid, which would allow more of the lid area to be utilized for open space. City Manager Schulze suggested the Council review the issues during this meeting, provide feedback and incorporate it to approve the draft interest statement for the June Council meeting. Public Works Director Jahn suggested the flyer stop at Evergreen Point Road be eliminated, as the vast majority of those using it were transients to traverse the Bridge.

City Manager Schulze also recommended the Council consider whether or not Medina agreed to the January 8, 2002 mitigation letter from Les Rubstello, of WSDOT. Medina had not concurred with that letter. However, Clyde Hill, Yarrow Point and Hunts point had agreed to it, and the Mayors of those municipalities had asked Medina to reconsider its position. Mayor Odermat commented that neither the Mayors of Hunts Point nor Yarrow Point were interested in negotiating the terms again, as they thought there had been resolution.

A Council member inquired about the proposed sound walls, and Mayor Odermat responded the Points Communities would have an opportunity to decide whether or not they wanted them. Public Works Director Jahn stated the state was required to meet certain noise decibel requirements. If sound walls were acceptable to the communities, that was how the state would handle the noise decibel level issue. A Council member also asked why former Mayor Becker had not signed the letter. City Manager Schulze indicated a letter in the packet signed by former Mayor Becker stated WSDOT's position was unacceptable.

A Council member expressed concern that the two-year old paperwork regarding Medina's becoming a Cooperating Agency needed to be updated. Mayor Odermat responded the other three Points Communities Mayors viewed it as a starting point, and Medina was welcome to make additions. Another Council member suggested Mayor McConkey be informed a new cooperatively drafted letter was in order. Mayor Odermat added if Medina could obtain the cooperation of the other Points Communities, it would have Bellevue's backing. She agreed it was time to refine the letter in accordance with the understandings in existence at this time between WSDOT and the four Points Communities. Council consensus was to draft a new letter and to pass it around. City Manager Schulze suggested Council members submit comments, questions and concerns to him for incorporation into the draft letter.

Steve Broback, 3223 Evergreen Point Road, noted the City of Seattle had given the cities money to fund a study. It was a very detailed document and might serve as a template for Medina's letter. He offered to e-mail this letter to City Manager Schulze

Consideration of Citizen Request for Refund of Collection Fees—City Manager Schulze gave background information regarding the citizen request for refund of collection fees. His biggest concern was Medina's Municipal Code did not authorize the City Manager to refund fees paid to a collection agency by holders of accounts that had been referred to collection. Council member Blazey furnished information regarding his involvement with the

refund request. He had been unaware of the City Attorney's written opinion when advising the claimants that sometimes the city could waive the collection fee when there had been a miscommunication. However, the variance application fee could not be refunded. The applicants paid because they had purchased property in Clyde Hill and were concerned about their credit rating, and had subsequently requested a refund of the collection fees. If there were a way to legally broker a compromise, Council member Blazey was in favor of such action. City Attorney Wines opined if there was evidence of a meritorious claim against the city, Medina could waive all or a portion of the collection fees. However, there must be a basis by which a refund would be acceptable to the State Auditor. City Attorney Wines stated if the City Manager and he could indicate this was a valid complaint with merit, there could be a compromise.

Planning Director Gellings stated staff had interpreted the Code for the lot in question as it applied six years ago versus three years ago. Under either interpretation, there was a setback intrusion. Testimony from the applicants showed they understood the setback intrusion issue. Even though the applicants were aware of the two different interpretations and had expressed disappointment, they had still moved forward with the variance request. The applicants' request was denied by the Hearing Examiner, who issued the decision five days late. City Manager Schulze added there had been a similar situation a year ago regarding the effect of a late Hearing Examiner decision, and that person had requested waiver of the entire fee, which the Council had denied. City Attorney Wines stated he was unaware of any jurisdiction which stated if a Hearing Examiner's decision was late, the applicant automatically won by default. Council member Blazey wanted the City Attorney to review the request again. City Attorney Wines promised to do so and to furnish the Council with an information packet by mail. Staff was directed to review this issue for a potential claim against the city. The Council unanimously authorized reimbursement of the collection agency fee plus interest for a total of \$544, if justified by a potential claim for damages. City Manager Schulze will report his findings to the Council via the City Manager's Activity Report.

Discussion of Amendments to Parks & Recreation Commission Ordinance—The Council reviewed the proposed changes to Ordinance No. 771, Amending Chapter 2.40 of the Medina Municipal code Governing the Board of Park Commissioners. Council member Vall-Spinosa moved, seconded by Council member Phelps, to approve Ordinance No. 771. Following discussion, Council member Blazey moved, seconded by Council member Vall-Spinosa, to amend the original motion and second to include the following revisions, and the vote was unanimously in favor. The Council directed staff to prepare an updated version of Ordinance No. 771 reflecting these changes.

- Change name from Park and Recreation Commission back to Park Board
- 2.40.020(c)—Membership Removal – The Council decided not to change the existing MMC language
- 2.40.040—Duties and Responsibilities -- Remove the words, "and direction."
- 2.40.050—Reporting – The Council decided to leave the language in the Ordinance as was originally written, which required the Park Board to provide them with a an established work plan at the beginning of each year, and a written report once per quarter.

School Sign Restrictions—Planning Director Gellings presented background information regarding amending the Zoning Code for school sign restrictions. He relayed Bellevue School District's project management team for Medina Elementary replacement had indicated they were not interested in a changeable message capacity for the sign that would be visible from the surrounding streets. The Council decided not to make a change to the ordinance for school signs. Council consensus was to allow the school sign issue to be included in the June 7, 2004 public hearing for Medina Elementary School.

NEW BUSINESS

Medina Newsletter Article and Medina Website Insertion to Identify Long-Term Residents—The Council directed that a newsletter article be written, as well as a website posting to identify Medina residents who had continuously lived in Medina for 50 years or more. These residents would be recognized as part of Medina's 50th Anniversary Celebration. Council member Rudolph volunteered to chair this committee.

Agenda Calendar—Council member Phelps requested that the Council discuss summer hours for City Hall. The Council decided to include summer hours on the May Study Session agenda. Another Council member requested that city facilities also be included as part of that Study Session agenda. Other Council calendar agenda changes were suggested, and Mayor Odermat requested that the Council be provided with a revised agenda calendar.

EXECUTIVE SESSION

At 11:36 p.m. Mayor Odermat announced the Council would recess into Executive Session for approximately five minutes to discuss personnel matters, per RCW 42.30.110(g). The meeting reconvened at 11:55 p.m.

ADJOURNMENT

Council member Adam moved, seconded by Council member Vall-Spinosa, to authorize CM Schulze to adjourn the meeting at 11:55 p.m., and the motion carried unanimously.

Attest:

Mayor Mary Odermat

Caroll P. Wedlund, Recording Secretary